

RESPONSE TO OFFICE ACTION

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REMARKS

This response is intended as a full and complete response to the Final Office Action dated October 19, 2005. In view of the following discussion, the Applicant believes that all claims are in allowable form.

CLAIM REJECTIONS**35 U.S.C. §102(b) Claims 1-6, 8, 10-13, 15 and 23**

Claim 1-6, 8, 10-13, 15 and 23 stand rejected as being anticipated by United States Patent No. 5,375,664 issued December 27, 1994 to *McDowell, et al.* (hereinafter referred to as "*McDowell*"). The Applicant respectfully disagrees.

McDowell discloses a pile driving apparatus that can drive piles into the ground to form a support structure for a column member of a building in a quick and safe manner. (Col. 1, Lines 5-10, Col. 3, Lines 30-35). The apparatus disclosed in *McDowell* teaches a boom providing a fixed or stationary support for a lead while a hammer drives a needle pile. The lead is coupled to the boom of an excavator in a manner that permits movement of the lead relative the boom in solely one plane. (Col. 5, Lines 67-68, Col. 6, Lines 1-2). Therefore, *McDowell* does not teach or suggest a lead mounting assembly pivotably coupled to a lead and having a mounting arrangement configured to allow rotation of the lead in a first plane, and a hydraulic actuator coupled to the lead and the lead mounting assembly, the hydraulic actuator adapted to control the orientation of the lead relative to the lead mounting assembly in second plane that is different than the first plane, as recited by claim 1; a lead mounting assembly coupling a lead to a boom, the lead mounting assembly having a boom mounting hole defining a first axis of rotation substantially perpendicular to the lead, wherein the lead is rotational relative to the lead mounting assembly about a second axis of rotation substantially perpendicular to the first axis of rotation, as recited by claim 10; or a attachment having a lead, a hammer slidably coupled to the lead and a lead mounting assembly coupling the lead to a boom and configured to allow positioning of the lead in two planes relative to the boom, as recited by claim 23.

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Thus, the Applicant submits that 1, 10 and 23, and all claims respectively depending therefrom, are patentable over *McDowell*. Accordingly, the Applicant respectfully requests the rejection be withdrawn and the claims allowed.

C. 35 U.S.C. §103(a) Claim 9

Claim 9 stands rejected as being unpatentable over *McDowell*. In response, the Applicant respectfully disagrees.

As discussed above, claim 9, which depends from claim 1, is patentable over *McDowell*. Furthermore, *McDowell* does not teach or suggest a cage that shields a hammer. Thus, *McDowell* can not teach or suggest a ladder integral to the cage. As such, adding a ladder to a cage could not possibly be a design choice in the light of *McDowell* because it does not teach or suggest either a cage or ladder.

Thus, the Applicant submits that claim 9 is patentable over *McDowell*. Accordingly, the Applicant respectfully requests the rejection be withdrawn and the claims allowed.

D. Claims 7 and 14

Claims 7 and 14 stand rejected as being unpatentable over *McDowell* in view of the United States Patent No. 4,333,541 issued June 8, 1982 to *Doty* (hereinafter referred to as "*Doty*"). In response, the Applicant respectfully disagrees.

Doty teaches that an elevation of a cylinder (in a vehicle mounted soil sampling device) may be adjusted by engaging cross pins to secure the overall position of a channel relative to a side plate. The section of which holes in which the cross pins are engaged do not limit the stroke (or travel) of the cylinder. Thus, *Doty* does not teach or suggest a plurality of the holes adapted to accept a pin for limiting the travel of a hammer. As such, it could not be obvious to one of the ordinary skill on the art to modify *McDowell* as taught or suggested by *Doty* in a manner that yields a plurality of holes for limiting the travel of the hammer.

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Thus, the Applicant submits that claims 7 and 14 are patentable over *McDowell* in view of *Doty*. Accordingly, the Applicant respectfully requests the rejection be withdrawn and the claims allowed.


CONCLUSION

Thus, the Applicant submits that all claims now pending are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issuance are earnestly solicited.

If, however, the Examiner believes that any unresolved issues still exist, it is requested that the Examiner telephone Mr. Keith Taboada at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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